

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

229274

STB Ex Parte No. 705

COMPETITION IN THE RAILROAD INDUSTRY

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COMMENTS OF AMEREN CORPORATION

James A. Sobule
Ameren Corporation
1901 Chouteau Avenue
St. Louis, MO 63103
314.554.2276
314.554.4014 (fax)

Sandra L. Brown
David E. Benz
Thompson Hine LLP
1920 N Street, N.W., Suite 800
Washington, DC 20036
202.263.4101
202.331.8330 (fax)

Attorneys for Ameren Corporation

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Introduction

Ameren Corporation ("Ameren") respectfully submits the following comments in response to the Notice ("Notice") that the Board served in the above-captioned proceeding on January 11, 2011. The Notice seeks comments on "the current state of competition in the railroad industry and possibly policy alternatives to facilitate more competition, where appropriate." Ameren appreciates the opportunity to submit these comments.

Background

Ameren Corporation, a public utility holding company headquartered in St. Louis, Missouri, provides energy service to 2.4 million electric customers and 1.0 million natural gas customers. Ameren's subsidiaries have an electric generating capacity of 16,400 MW and generate 85% of its electricity from coal. Ameren's operating subsidiaries collectively own eleven coal fired generating stations.

Ameren is the 5th largest consumer of coal in the United States, consuming approximately 39 million tons annually, and is the largest purchaser of Powder River Basin Coal.

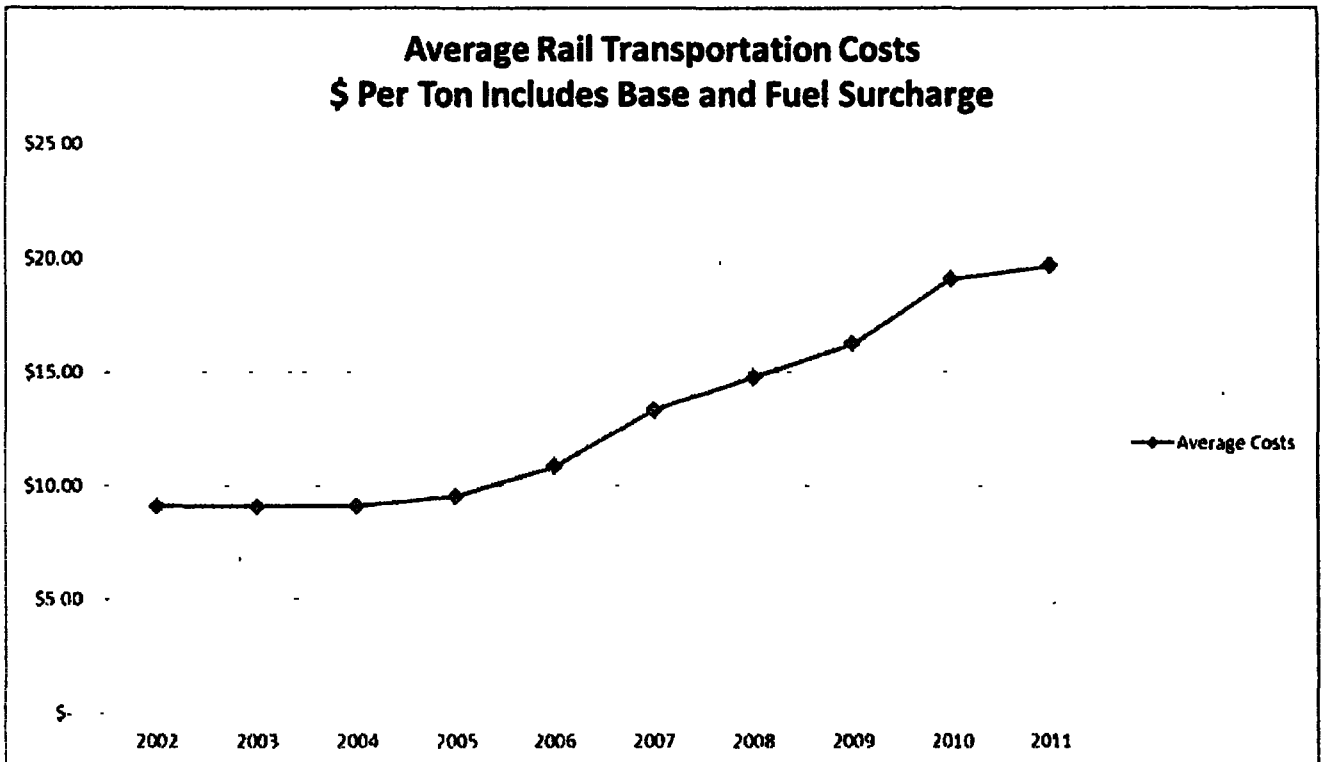
As a result, Ameren is a very large shipper of coal by rail, operating approximately 55 trainsets in continuous service, and spends approximately \$650 million annually on rail transportation.

Ameren's Rail Transportation Costs

Ameren began converting its power plants from high sulfur Illinois coal to low sulfur Powder River Basin coal in the early 1990's in response to the Clean Air Act. While the Powder River Basin is roughly ten times further from Ameren plants than the Illinois coal fields, the competition among railroads at that time provided rail rates that resulted in the use of Powder River Basin coal being more economical than using Illinois coal with the required emission controls.

As Ameren expanded its use of Powder River Basin coal, the rail rates continued to drop as a result of competition between the western rail carriers until about 2004. At that time, there was a marked change in the competitiveness of the western rail carriers which resulted in rates dramatically increasing.

Prior to 2004, Ameren found that the western carriers were interested in securing additional business and would compete vigorously for new traffic. Rail rates gradually decreased from the time that Ameren commenced using Powder River Basin coal in 1990 due to the non-incumbent competing railroad taking contracts as they came due by bidding lower rates, or the incumbent carrier reducing its rates to keep the business. As shown on the graph below, Ameren's rail rates increased dramatically after 2004:



Ameren's Post 2004 Experience

Starting in 2004, Ameren found a very different competitive environment among the western railroads. Railroads were no longer interested in acquiring coal traffic that was already being hauled by a competing carrier. From 2004 to 2011, Ameren issued bids for rail rate quotes for eleven competitive rail-served plants. Not a single one of these plants changed carriers as a result of these requests for new rates. In other words, the railroad that was handling the business at the time of the quote retained the business. The non-incumbent railroad, at the time of the quote, quoted a rate, on average, that was 43% higher than the rate of the incumbent railroad.

Because the non-incumbent rate, on average, was 43% higher than the incumbent rate, the incumbent railroad rate was able to consistently impose a substantial increase from the prior

rate. The increases that the incumbent carrier was able to impose on these eleven quotes ranged from a 9% to an 87% increase at contract renewal.

Another phenomenon which began occurring after 2004 was what Ameren terms "non-responsive bidding." These are carrier responses to rate requests which clearly indicate that the carrier is not interested in the business. This type of bid includes no response, a response which imposes extreme one-sided conditions which make the quote unacceptable, or varying from Ameren's material bid parameters. During the 2004 to 2011 timeframe, Ameren received five non-responsive bids of these types.

Another type of non-responsive bid is the refusal to quote to a non-physical point. Prior to 2004, Ameren was active in building and acquiring competitive rail access to its power plants. Since 1990, Ameren constructed four build-outs at plants to allow second rail carrier access, and also formed three short line railroads. Ameren also purchased a rail line and built barge facilities to allow competitive access to three additional plants. These facilities were often built by obtaining a favorable rate prior to construction from the competing carrier. However, after 2004, Ameren found that both western carriers had adopted the policy of not quoting to "non-physical" points. In other words, railroads would not quote a rate if the physical track had not already been constructed. This further stifled competitive alternatives as a shipper is unlikely to invest in new facilities if the rate at the connection is unknown. During the 2004 to 2011 timeframe, Ameren received three non-responsive bids of this type.

STB Response Is Necessary to Protect Competitive Shippers

Ameren respectfully offers the following suggestions for an alternative policy at the STB:

1. Competitive shippers are currently not protected by STB statute under the assumption that competition among carriers will protect shippers with competitive options.
However, since 2004, this has not been the case, as competitive shippers rates have often approached or surpassed the 180% of variable cost jurisdictional threshold set for captive shippers. The STB should move to interpret the statute so that if any rate exceeds this threshold, that rate *prima facie* demonstrates that there is a clear lack of effective competition and can be challenged under the STB rate guidelines.
2. The bar for revenue adequacy is currently set too high to provide meaningful guidance to rail rate issues. This is demonstrated by the fact that railroad financial performance, and stock price have remained high despite the recession. Privatization of BNSF is another indicator of railroad financial success.
3. Railroad fuel surcharge recovery should be transparent. The STB should use the cost data collected from the railroads to determine if fuel surcharges are allowing accurate recovery of the railroads fuel costs.

Respectfully submitted,



Sandra L. Brown
David E. Benz
Thompson Hine LLP
1920 N Street, N.W., Suite 800
Washington, DC 20036
202.263.4101
202.331.8330 (fax)

Attorneys for Ameren Corporation

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